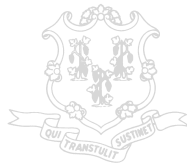


OFFICE OF LEGISLATIVE RESEARCH
PUBLIC ACT SUMMARY



PA 14-7—sSB 283

Banks Committee

**AN ACT CONCERNING THE BANKING LAWS, THE UNIFORM
COMMERCIAL CODE, THE ELECTRONIC FUND TRANSFER ACT
AND MORTGAGORS IN GOOD STANDING**

SUMMARY: This act makes a number of unrelated changes. Among other things, it:

1. expands the licensure and bond requirements for businesses that (a) make residential mortgage loans or act as mortgage lenders, mortgage correspondent lenders, or mortgage brokers and (b) engage the services of mortgage loan originators to act on their behalf;
2. creates a bond requirement for certain nonprofit organizations that choose to sponsor a mortgage loan originator;
3. limits the recovery of judgments against a debt negotiator's bond by prospective mortgagors of certain types of mortgages;
4. expands licensure requirements for debt negotiators who are also mortgage loan originators;
5. allows service of notice and process to begin a legal proceeding against certain individuals to be made by certified mail, return receipt requested;
6. modifies the process by which a debtor's funds held by a financial institution can be obtained to satisfy a judgment, including expanding the circumstances when a bank must leave the lesser of \$1,000 or the balance in a person's account;
7. excludes from the laws governing nonprime home loans, single family mortgages insured by the federal Department of Housing and Urban Development (HUD) under federal law and regulations;
8. expands the types of banks that may offer savings promotion raffles; and
9. requires a mortgagee to provide a certificate of good standing to a mortgagor who has completed the foreclosure mediation program, if specified conditions are met.

The act also makes technical changes, including changing various references to federal regulations to reflect the transfer of authority from the Federal Reserve System to the Consumer Financial Protection Bureau. It also corrects improper references (§§ 2, 5-8, & 13).

EFFECTIVE DATE: Upon passage, except for (1) the provision on certificates of good standing, which is effective July 1, 2014; (2) provisions on service of process in certain cases, funds exempt from execution, and nonprime loans, which are effective October 1, 2014; and (3) a conforming change regarding funds exempt from execution, which is effective July 1, 2015.

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§§ 1 & 11-12 — MORTGAGE LOAN ORIGINATORS

§ 1 — Branch Offices

The act expands the licensure and bond requirements for certain businesses that make residential mortgage loans or act as mortgage lenders, mortgage correspondent lenders, or mortgage brokers (i.e., licensees).

The law requires a licensee to obtain a license for its main office and each branch office. The act classifies the location of a mortgage loan originator who works with the licensee as a branch office. In so doing, it requires a licensee to (1) obtain a license, (2) file an addendum to the required bond, and (3) have a branch manager for each location where a licensed mortgage loan originator acts on its behalf. The branch manager at the mortgage loan originator's location must meet the minimum requirements for a branch manager under the law, which include (1) at least three years' experience in the mortgage business within the five years preceding the license application and (2) prelicensing education.

Under law, a "mortgage loan originator" is an individual who, for compensation, (1) takes a residential mortgage loan application or (2) offers or negotiates terms of a residential mortgage loan.

§§ 11 & 12 — Bond Requirement for a Bona Fide Nonprofit Organization Sponsoring a Mortgage Loan Originator

The act creates a bond requirement for certain "bona fide nonprofit organizations" that (1) are exempt from mortgage broker licensing and (2) choose to sponsor a mortgage loan originator (defined above).

By law, a "bona fide nonprofit organization" is an organization that files a form with the banking commissioner certifying it has tax-exempt status, promotes affordable housing, and serves public or charitable purposes. A bona fide nonprofit organization is exempt from licensing as a mortgage broker if it acts as a mortgage broker for residential loans made by a corporation or its affiliate to (1) promote home ownership in urban areas or (2) benefit its employees or agents. By law, a bona fide nonprofit organization may sponsor a mortgage loan originator by registering as an exempt registrant on the Nationwide Mortgage Licensing System and Registry (i.e., the system) which is used for licensing and registering mortgage lenders, mortgage correspondent lenders, mortgage brokers, mortgage loan originators, and loan processors or underwriters.

Under prior law, a bona fide nonprofit organization that was an exempt registrant was not required to file a surety bond with the commissioner. The act requires the organization to obtain a bond for an amount based on its aggregate residential mortgage loan amount during the 12-month period ending July 31 of the current year, as follows:

<i>Aggregate Residential Mortgage Loan Amount</i>	<i>Required Bond Amount</i>
Up to \$30 million	\$50,000
\$30 million up to \$50 million	\$100,000
\$50 million or more	\$150,000

§§ 3-4 & 9-10 — DEBT NEGOTIATORS

§§ 3 & 4 — *Judgment Recovery from Bond Proceeds*

The act limits the recovery of judgments against a debt negotiator's bond by certain prospective mortgagors (borrowers).

By law, debt negotiators must file a surety bond with the banking commissioner. A mortgagor or prospective mortgagor may recover from the bond, a judgment that the debt negotiator or the sponsored mortgage loan originator failed to satisfy relating to the negotiation of, or offer to negotiate, a nonprime home loan.

The act excludes from nonprime home loans, single family mortgages insured or guaranteed by HUD under federal law and regulations (78 Federal Register 75237). By doing so, it prevents a prospective mortgagor of such a loan from proceeding against the principal or surety of the bond when the negotiator fails to satisfy a judgment that arises from the negotiation of, or offer to negotiate, such a mortgage. A mortgagor of such a loan may proceed against the bond under similar provisions in existing law, but those provisions do not apply to prospective mortgagors.

§§ 9 & 10 — *Licensure Requirement*

The act expands the licensure requirements for certain debt negotiators by allowing the commissioner to suspend, revoke, or refuse to issue or renew the debt negotiator license of a debt negotiator who violates the mortgage loan originator requirements.

By law, unless otherwise exempt, a debt negotiator must be licensed as a mortgage loan originator if he or she negotiates a residential mortgage loan on behalf of a mortgagor for compensation or gain. Any such debt negotiator must comply with all requirements imposed on a mortgage loan originator, such as licensure, bond, and record retention requirements.

§§ 14-16 — SERVICE OF PROCESS IN CERTAIN CASES INVOLVING THE BANKING COMMISSIONER

The act adds a method of serving process on the banking commissioner when the law requires him to receive the process on behalf of certain people and entities. The act allows serving the process by certified mail, return receipt requested. The law already authorizes service by (1) registered mail, return receipt requested or (2) express delivery carrier with a dated delivery receipt.

This applies when the law requires one of the following people to appoint the banking commissioner as his or her agent for service of process: applicants for registration with the commissioner under the uniform securities act (such as broker-dealers and investment advisors), investment advisors who are exempt from registration, and certain security issuers.

In certain cases when the commissioner receives process on behalf of another person or entity, the law requires the person serving the process to also send it to

the person's or entity's address on file with the commissioner. The act allows this service by certified mail, return receipt requested. The law already authorizes service by (1) registered mail, return receipt requested or (2) express delivery carrier with a dated delivery receipt. This applies in actions against:

1. the people and entities described above who are required to consent to service, when they do not do so and are not subject to personal jurisdiction in Connecticut's courts and
2. sellers proposing business opportunities (the sale and lease of products, equipment, supplies, or services that enable a person to start his or her own business) in Connecticut.

§§ 17 & 18 — FUNDS EXEMPT FROM EXECUTION IN DEBTOR'S ACCOUNT

Amount Left in Account and Readily Identifiable Deposits

By law, a creditor may obtain a court-ordered judgment against someone who owes the creditor money (debtor). The creditor may have an execution issued by the court served on any bank where the debtor has an account. Certain funds are exempt from execution if the debtor claims the exemption.

Prior law required the bank to leave in the account the lesser of \$1,000 or the account balance if, in the 30 days before the execution was served on the bank, an electronic direct deposit was made to the account that was readily identifiable as one of the following: (1) federal veterans' benefits, (2) Social Security benefits, or (3) child support payments the state collects and electronically deposits into a parent's bank account. The act expands application of this rule in two ways. It:

1. applies this rule when an account receives electronic direct deposits that are readily identifiable as (a) exempt benefits paid by the federal Railroad Retirement Board or Office of Personnel Management (which includes federal civil service retirement benefits) or (b) unemployment benefits and
2. lengthens the look-back period for all of these readily identifiable deposits, from 30 to 60 days, or a longer period, if required by federal law for a federal benefit.

The law requires the debtor to have access to funds left in the account. The act specifies that this must be full and customary access to the funds.

PA 14-9 also applies these rules to electronic direct deposits of readily identifiable wages.

Repeat Service of Executions on Banks

The act prohibits a serving officer from subsequently serving the same execution (or a copy of it) on the same bank when an electronic direct deposit from one of the readily identifiable sources described above was made to the debtor's account during the look-back period. Otherwise, the act allows subsequent service of the execution as long as the execution has not expired or become unenforceable.

Notice

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When funds are removed from an account, the law requires the bank to mail a copy of the execution and exemption claim form to the debtor. The act additionally requires mailing notice to the debtor as required by federal regulation for certain federal benefits. Federal regulations require a bank to send a readily understandable notice with certain information when the account contains a federal benefit payment. The notice must, among other things, identify the federal benefits involved and explain garnishment, the bank's obligations under federal law, and the state law's requirements to freeze funds (31 CFR § 212.7).

§ 19 — NONPRIME LOANS

The act excludes from the laws governing nonprime home loans, single family mortgages insured by HUD under federal law and regulations (see 12 USC § 1701 et seq. and 78 Federal Register 75237, which adds new regulations on qualified mortgages). Under the federal regulations, these mortgages must meet certain requirements regarding maximum points, fees, and interest rates that relate to the borrower's ability to repay the loan.

The law governing nonprime home loans imposes various requirements on making these loans, and restricts allowable provisions in such loans. In practice, a nonprime home loan is one generally made to a relatively risky borrower and that thus has a higher interest rate and stricter repayment terms.

§ 20 — SAVINGS PROMOTION RAFFLES

The act expands the types of banks that may offer savings promotion raffles under specified conditions.

By law, a "savings promotion raffle" is a raffle in which an account holder who is at least age 18 deposits a minimum specified amount of money in a savings account or savings program for a chance to win designated prizes. Each entry in the raffle must have an equal chance of winning.

The act allows all bank and trust companies, savings banks, or savings and loan associations chartered or organized under Connecticut law to offer savings promotion raffles. Prior law limited these raffles to Connecticut credit unions and community banks the commissioner deemed to be financially secure.

The act also expands the requirements for institutions seeking to offer savings promotion raffles. By law such institutions are required to (1) fully disclose the savings promotion raffle terms and conditions and (2) maintain records sufficient to facilitate a related audit. The act also requires the institutions to (1) comply with applicable consumer protection laws, (2) not jeopardize their safety and soundness, and (3) submit written notice to the commissioner 30 days before conducting the raffle.

§ 21 — MEDIATION PROGRAM CERTIFICATE OF GOOD STANDING

The act requires mortgagees (the owner or servicer of a mortgage debt) to provide a "certificate of good standing" to a mortgagor (homeowner) who has (1) requested such certificate, (2) successfully completed the state's foreclosure

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mediation program, and (3) remained current on the mortgage payment for three years after completing the program.

The act defines a “certificate of good standing” as a letter stating that the mortgagor has made each mortgage payment in a timely fashion, as determined by the mortgagee.

The state’s foreclosure mediation program determines whether parties can reach an agreement that will avoid foreclosure. The program uses Judicial Branch foreclosure mediators to conduct mediation sessions in a statutorily prescribed timeframe.

BACKGROUND

Related Acts

PA 14-9 expands the types of deposits that are automatically exempt up to \$1,000 from bank executions against a judgment debtor’s account to include electronic direct deposits readily identifiable as wages.

PA 14-89, among other things, (1) limits the exemptions from mortgage lender, mortgage correspondent lender, mortgage broker, and debt negotiator licensure that apply to certain subsidiaries of banks and credit unions; (2) narrows the scope of the exemption from mortgage loan originator licensure applicable to certain attorneys; and (3) extends the foreclosure mediation program, by two years, until July 1, 2016.

OLR Tracking: CR/MK:KM:JKL:am